



City of Albuquerque

Legislative File Number R-06-47 (version 1)

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

A Text And Map Amendment To The La Cueva Sector Development Plan, 05epc-00941 And 05epc-00942, Pertaining To Section 5.4.5, The Su-2/Mixed Use Zone, Adding Language Creating A New Zoning Category, "Su-2/Mixed Use With Beer And Wine Sales For Off-Premise Consumption, " To Be Placed On A +/-1-Acre Portion Of An Overall +/-1.6-Acre Tract Located At The Southeast Corner Of Louisiana Boulevard, NE And Holly Avenue, NE.

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

WHEREAS, the City of Albuquerque adopted the La Cueva Sector Development Plan in June, 2000 through Council Enactment 65-2000, and;

WHEREAS, the Council has the authority to not only adopt but amend the above-referenced Plan, and;

WHEREAS, the above-referenced Plan establishes SU-2/Mixed Use Zoning and land use guidelines for the Plan's area, and;

WHEREAS, on 20 October, 2005, the Environmental Planning Commission, in its advisory role on land use and planning matters, recommended approval of a text amendment to §5.4.5 of the above-referenced Plan to create a new zoning classification to allow beer and wine sales for off-premise consumption within an SU-2/Mixed Use zone specifically for a portion of an overall +/-1.6-acre tract located at the southeast corner of Louisiana Boulevard, NE and Holly Avenue, NE, and;

WHEREAS, the Environmental Planning Commission has found the text

amendments to be in keeping with both the City/County Comprehensive Plan and the La Cueva Sector Development Plan,

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. SECTOR PLAN TEXT AMENDED. §5.4.5 of the La Cueva Sector Development Plan is amended to include the following additional language: “14. Land uses on Lot 1-A-1-A, Block 10, Tract 2, North Albuquerque Acres, U-3, may include beer and wine sales for off-premise consumption.”

Section 2. FINDINGS ACCEPTED. The City Council shall adopt the following sector plan text amendment findings and conditions recommended by the Environmental Planning Commission on 20 October, 2005:

1. Convenience retail stores that sell food and non-alcoholic beverages are a permissive use under the entire site's current zoning.
2. There are no retail food and beverage stores within reasonable walking distance of existing single-family residential development catercorner to the project site.
3. The applicant has not asserted a need to change the existing zoning of a portion of the subject property in response to either a perceived error in zoning or a change in area conditions, as outlined in Resolution 270-1980, sections 1.D.1 and 1.D.2, respectively.
4. Significant advantage or benefit to both the surrounding community and the City will be gained as a result of a sector plan map amendment allowing the inclusion of beer and wine sales within a portion of the subject property, as required by Resolution 270-1980, section 1.D.3.
5. As the applicant's request involves the establishment of a new zoning category within the boundaries of the *La Cueva Sector Development Plan* area to allow SU-1/Mixed Use with Beer and Wine Sales for off-premise consumption on a portion of the subject property, a text amendment to the governing sector plan is required.
6. The applicant is authorized to pursue a request for a text amendment to the *La Cueva Sector Development Plan* to allow SU-1/Mixed Use with Beer and

Wine Sales for off-premise consumption on a portion of the subject property.

7. There is no known public opposition to the request, and neither area residents nor the affected neighborhood associations solicited facilitation assistance from the City.

Section 3. ZONE MAP/SECTOR PLAN MAP AMENDED. The zone map adopted by Section 14-16-1-1 et. Seq. R.O.A. 1994, and the sector plan map adopted by Council Enactment 65-2000 is hereby amended, establishing SU-2/Mixed Use with Beer and Wine Sales for Off-premise Consumption zoning for the area specified in Section 1 above.

Section 4. FINDINGS ACCEPTED. The City Council shall adopt the following zone map/sector plan map amendment findings and conditions recommended by the Environmental Planning Commission on 20 October, 2005.

1. The original request to allow packaged liquor sales was amended by the applicant because approval of the original request would have allowed an individual liquor store to operate on the site. As the likelihood of an individual store catering to the primary sale of beer and wine appears highly unlikely, the applicant believed the modification in the zone change request to be more appropriate.
2. Convenience retail stores that sell food and non-alcoholic beverages are a permissive use under the site's current zoning. As the subject area does not abut residentially zoned properties, outside retail sales of gasoline are also allowed.
3. There are no retail food and beverage stores within reasonable walking distance of existing single-family residential development catercorner to the project site.
4. The proposed request for a zone map/sector plan map amendment does not conflict with the following sections of Resolution 270-1980:
 - a. Section 1-A, which prescribes denial of the map amendment request that could potentially compromise the health, safety, morals and welfare of the general public. In subsequent correspondence, the applicant has extensively outlined company-imposed safeguards, training measures and policies surrounding alcoholic sales to the public. With this in mind, the applicant has

satisfactorily demonstrated that the proposed land use will maintain the safety interests of the community by providing adequate precautionary measures against improper access to minors and inebriated buyers;

- b. Sections 1-B and 1-C, which requires that the proposed map amendment request furthers the intent of the *City/County Comprehensive Plan* and any other associative plans, and that the request provides a solid foundation for land use and zoning stability. Originally, the applicant questionably equated land use stability with market conditions, convenient access to beer and wine sales and likely reductions in vehicular traffic. The applicant has since further clarified that although retail food and non-alcoholic sales are already permitted, the inclusion of beer and wine sales will foster ongoing community patronage and promote continued business growth and longevity, two important facets that will keep the business from becoming an empty storefront or a business in perpetual transition, two events that could eventually erode area stability;
- c. Section 1-E, which prescribes denial of a map amendment request that allows the placement of uses that may be potentially harmful to an adjacent property, neighborhood or community. Again, the applicant has demonstrated the willingness to implement extensive company policies, safeguards and training surrounding alcoholic sales to the general public in order to maintain the public health, safety and welfare;
- d. Section 1-F, as the requested map amendment and accompanying development do not require major, non-programmed capital expenditures by the City;
- e. Section 1-G, which prescribes denial of the map amendment request on the primary basis of economic consideration or hardship. Although the applicant's argument includes economic determinants such as market-based competitiveness and desired business preferences, they are not used as a basis to establish hardship, but rather as a means of emphasizing that beer and wine sales would be a secondary, yet important, component in solidifying business presence and ensuring both longevity and stability;

- f. Section 1-H, as the site's proximity to a designated major arterial is not the primary basis for the applicant's request, and;
 - g. Sections 1-I and I-J, as the request constitutes neither a “spot” nor a “strip” zone.
- 5. The proposed request for a sector plan map amendment is not required to correct an error in zoning classification, as expressed in Resolution 270-1980, section 1-D-1
- 6. The proposed request for a sector plan map amendment is not in response to changes in area conditions, as expressed in Resolution 270-1980, section 1-D-2
- 7. The applicant asserts that new stores are “positioned to do substantially more business through food service, and much less dependence on traditional tobacco/beer sales,” thereby relegating beer and wine sales to a less dominant role. The applicant has also satisfactorily demonstrated that extensive company policies and safeguards are in place to guarantee that the health and safety of the general public is not compromised and that existing neighborhood values are respected, in accordance with *Policy II.B.5.d* of the *City/County Comprehensive Plan*.
- 8. Existing public infrastructure is in place to adequately support a convenience retail store, in accordance with *Policy II.B.5.e* of the *City/County Comprehensive Plan*
- 9. Whereas a convenience store operation is already allowed on the site, employment generation and provision of day-to-day goods and services is assured. The inclusion of beer and wine sales shall, nevertheless, encourage longevity and growth of the business and diminish the potential risk of frequent ownership change or business closure, in accordance with *Policy II.B.5.i* of the *City/County Comprehensive Plan*
- 10. Whereas the proposed use constitutes high-quality development that offers a wide range of goods and services to the nearby community and is located within a primary corridor identified as suitable for this type of urban development, the request meets several tenets of the *La Cueva Sector Development Plan*
- 11. Whereas the development of a retail convenience store that does not include

alcoholic beverage sales could offer substantial advantage and benefit to the surrounding area and to the City, as required by Resolution 270-1980, sections 1-C and 1-D-3, the inclusion of beer and wine sales could also offer area land use stability and amplify those advantages and benefits.

12. The applicant is authorized to pursue a request for a request for a sector plan map amendment on the subject property.
13. There is no known public opposition to the request, and neither area residents nor the affected neighborhood associations solicited facilitation assistance from the City.

Section 5. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The Council hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provisions being declared unconstitutional or otherwise invalid.